

TEXAS APPRAISER LICENSING  
AND CERTIFICATION BOARD

vs.

DAVID MCCOLLUM  
TX-1320322-G

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DOCKETED COMPLAINT NO. 11-053  
& 11-137

**AGREED FINAL ORDER**

On this the \_\_\_\_\_ day of \_\_\_\_\_, 2011, the Texas Appraiser Licensing and Certification Board, (the Board), considered the matter of the certification of David McCollum (Respondent).

In order to conclude this matter David McCollum neither admits nor denies the truth of the Findings of Fact and Conclusions of Law contained herein and further agrees to the disciplinary action set out in this Agreed Final Order. The Board makes the following findings of fact and conclusions of law and enters this Order in accordance with TEX. OCC. CODE § 1103.458:

**FINDINGS OF FACT**

1. Respondent, David McCollum, is a certified general real estate appraiser who currently holds and held certification number TX-1320322-G during all times material to the above-noted complaint case.
2. Respondent appraised 3217 Kinney Road, Austin, TX ("the property") on or about May 19<sup>th</sup>, 2008.
3. On or about October 8<sup>th</sup>, 2010, Mark Liley, with Flagstar Bank, filed a complaint with the Board based on allegations that the Respondent had produced an appraisal report for the above-noted property that contained various USPAP violations.
4. On or about October 8<sup>th</sup>, 2010, the Board, in accordance with the mandate of the Administrative Procedure Act (the APA), TEX. GOV'T CODE ANN. CHPT. 2001, and TEX. OCC. CODE CHPT. 1103, notified Respondent of the nature of the accusations involved and Respondent was afforded an opportunity to respond to the accusations in the complaint. Respondent's response to this complaint was received.
5. Respondent violated TEX. OCC. CODE § 1103.405, 22 TEX. ADMIN. CODE §§ 153.20(a)(3) and 155.1(a) by the following acts or omissions which did not

conform to USPAP in effect at the time of the appraisal report for the property:

- a) Respondent failed to comply with the record keeping provisions of the Ethics Rule;
- b) Respondent failed to identify and report the improvement(s) description adequately;
- c) Respondent failed to identify and analyze the effect on use and value of existing land use regulations, economic supply & demand, physical adaptability of the real estate and market area trends;
- d) Respondent failed to provide support and a summary of the basis of his rationale for his determination of the property's highest and best use;
- e) Respondent failed to use an appropriate method or technique to determine site value and did not provide support for the site value determination. Respondent also failed to collect, verify, analyze and reconcile the cost new of improvements, and accrued depreciations, and generally failed to employ recognized methods and techniques in the cost approach;
- f) Respondent failed to collect, verify, analyze and reconcile comparable sales data adequately and failed to employ recognized techniques in his sales comparison approach;
- g) Respondent failed to collect, verify, analyze and reconcile comparable rental data for subject rent and/or the potential earnings capacity of the property to estimate the gross income potential of the subject, and generally failed to employ recognized methods and techniques in his income approach;
- h) Respondent failed to reconcile the quality and quantity of the data within the approaches used and the applicability or suitability of the approaches;
- i) Respondent's report contains substantial errors of commission or omission as detailed above which resulted in a misleading appraisal report for the property.

## CONCLUSIONS OF LAW

1. The Texas Appraiser Licensing and Certification Board has jurisdiction over this matter pursuant to the Texas Appraiser Licensing and Certification Act, TEX. OCC. CODE § 1103 et. seq.
2. Respondent violated the following provisions of USPAP as prohibited by TEX. OCC. CODE § 1103.405 and 22 TEX. ADMIN. CODE §§ 155.1(a) and 153.20(a)(3): USPAP Ethics Rule (record keeping); USPAP Standards: 1-2(e)(i) & 2-2(b)(iii); 1-3(a) & 2-2(b)(viii); 1-3(b) & 2-2(b)(ix); 1-4(b)(i) & 2-2(b)(viii); 1-4(b)(ii) & 2-2(b)(viii); 1-4(b)(iii) & 2-2(b)(viii); 1-1(a) & 1-4(b); 1-4(a) & 2-2(b)(viii); 1-1(a) & 1-4(a); 1-4(c)(i) & 2-2(b)(viii); 1-1(a) & 1-4(c); 1-1(a); 1-1(b); 1-1(c); and, 2-1(a).
3. Respondent violated 22 TEX. ADMIN. CODE §153.20(a)(9) by making material misrepresentations and omitting material facts.

Based on the above findings of fact and conclusions of law, the Board **ORDERS** that prior to issuance of a state certification the Respondent shall:

- a. Attend and complete a minimum, 15 classroom-hour course in USPAP;
- b. Attend and complete a minimum, 15 classroom-hour course in Residential Case Studies;
- c. Attend and complete a minimum, 15 classroom-hour in Highest and Best Use / Market Data Analysis;
- d. Pay to the Board an administrative penalty of \$100.00, all of which shall be probated under the condition that within 30 days of completing the Residential Case Studies and Highest and Best Use / Market Data Analysis courses, Respondent shall submit a signed, dated, written, 2 page report to the Board for each of these two courses which shall indicate: (i) what he learned from the course and (ii) how he intends to apply the course material to his appraisal practice in the future to avoid similar violations; and
- e. Comply with all future provisions of the Act, the Rules of the Board, and USPAP in the future or be subjected to further disciplinary action.

**ALL CLASSES** required by this Agreed Final Order must be classes approved by the Board and must be completed within **TWELVE MONTHS** of the date of this Order and documentation of attendance and successful completion of the educational requirements of this Order shall be delivered to the Board on or before the end of the twelve-month period indicated. None of the classes or seminars required by this Order may be taken through correspondence courses. Unless otherwise noted above, all classes must be in-class, have an exam, and Respondent must have a passing grade on the exam given in each class. None of these required classes will count toward Respondent's continuing education

requirements for licensure or certification. Respondent is solely responsible for locating and scheduling classes to timely satisfy the terms of this agreement.

Failure to comply with any of the terms of this Agreed Final Order within the time allotted shall result in **IMMEDIATE SUSPENSION** of the Respondent's license or certification and imposition of the remaining, probated portion of the administrative penalty pursuant to notice to the Respondent from the Board indicating that the Respondent has not fulfilled the requirements of this Agreed Final Order.

**ANY SUCH SUSPENSION AND IMPOSITION OF THE REMAINING ADMINISTRATIVE PENALTY** SHALL BE EFFECTIVE WITHOUT THE NEED FOR A HEARING OR OTHER ADMINISTRATIVE DUE PROCESS UNDER THE TEXAS APPRAISER LICENSING AND CERTIFICATION ACT OR THE ADMINISTRATIVE PROCEDURE ACT, AND RESPONDENT SPECIFICALLY WAIVES ANY SUCH HEARING OR DUE PROCESS. Respondent shall be notified of any such suspension or lifting of probation by certified mail, return receipt requested, to the last known address as provided to the Board. If Respondent's license or certification is suspended on such a basis, the suspension shall remain in effect until such time as Respondent complies with all the terms of this Agreed Final Order and the remaining portion of the administrative penalty shall be due within 20 days of written notice.

Respondent, by signing this Agreed Final Order, waives the Respondent's right to a formal hearing and any right to seek judicial review of this Agreed Final Order. Information about this Agreed Final Order is subject to public information requests and notice of this Agreed Final Order will be published on the Board's web site.

THE DATE OF THIS AGREED FINAL ORDER shall be the date it is executed by the Chairperson of the Texas Appraiser Licensing and Certification Board. The Chairperson has been delegated the authority to sign this Agreed Final Order by the Texas Appraiser Licensing and Certification Board vote.

Signed this 18 day of May, 2011.

David McCollum  
DAVID MCCOLLUM

Ted Whitmer  
TED WHITMER, ATTORNEY FOR  
DAVID MCCOLLUM

SWORN TO AND SUBSCRIBED BEFORE ME, the undersigned, on this the 18th day of May, 2011, by DAVID MCCOLLUM, to certify which, witness my hand and official seal.

Karissa Clontz  
Notary Public Signature



Karissa Clontz

Notary Public's Printed Name

Signed by the Standards and Enforcement Services Division this 19<sup>th</sup> day of AUGUST, 2011.

Troy Beaulieu

Troy Beaulieu, TALCB Staff Attorney

Signed by the Commissioner this 19<sup>th</sup> day of August, 2011.

Douglas Oldmixon  
Douglas Oldmixon, Commissioner  
Texas Appraiser Licensing and Certification Board

Approved by the Board and Signed this 19<sup>th</sup> day of August, 2011.

Luis De La Garza  
Luis De La Garza, Chairperson  
Texas Appraiser Licensing and Certification Board

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DOCKETED COMPLAINT NO.  
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**FINAL ORDER**

On this 18th day of May, 2012, the Board considered the above-noted matter, in which an Agreed Final Order was previously entered by the Board.

The Texas Appraiser Licensing and Certification Board, after review and due consideration of Respondent's request for modification of the previously entered Agreed Final Order, attached as Exhibit A hereto, now enters this Final Order modifying the previously entered Agreed Final Order.

NOW, THEREFORE, IT IS ORDERED by the Texas Appraiser Licensing and Certification Board that David McCollum's request for modification of the agreed final order to allow for completing required courses online is denied.

Approved by the Board and signed this 18 day of May, 2012.

  
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Luis De La Garza, Chairperson  
Texas Appraiser Licensing and Certification Board